

BOARD OF APPEALS CASE NO. 5047

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BEFORE THE

**APPLICANTS: Michael & Mary
Grutkowski**

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ZONING HEARING EXAMINER

**REQUEST: Variance to construct an
addition within the required rear yard
setback; 3018 Guyton Road, Fallston**

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 4/19/00 & 4/26/00

HEARING DATE: June 5, 2000

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Record: 4/21/00 & 4/28/00

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ZONING HEARING EXAMINER'S DECISION

The Applicants, Michael and Mary Grutkowski, are requesting a variance to Section 267-34C, Table II, of the Harford County Code, to construct an addition within the required 50 foot rear yard setback in an AG Agricultural District. The Applicants are proposing a 22 foot setback.

The subject property is located at 3018 Guyton Road, Fallston, in the Third Election District. The parcel is more specifically identified as Parcel 660, in Grid 2A, on Tax Map 55. The parcel is approximately 2.611 acres in size, all of which is zoned AG.

Mr. Michael Grutkowski appeared and testified that he grew up at and has lived at the subject property off and on since 1968. In March of 2000, he and his wife acquired ownership of the property. Mr Grutkowski testified that they now have two families living in the household, his family and his mother, and it is important for them to add an addition to the home to accommodate everyone's needs. It is their proposal, according to Mr. Grutkowski, to build a 24 foot by 36 foot, two story addition onto the side of the existing home. The addition would include a bedroom, as well as a two car garage built underneath the sleeping quarters. It was Mr. Grutkowski's testimony that the variance is needed because the existing house is already located within the required 50 foot setback, and the topography of the parcel won't allow the construction of an addition in any other location. Although the parcel is 2.611 acres in size, Mr. Grutkowski noted that there is a stream in the front of the property, the house is set far back at the rear of the property, and a drainfield is located in front of the house, severely limiting the buildable area of the lot. The side setbacks also will not allow additional construction.

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Denial of the variance will cause the family difficulty and hardship because additional room is needed to accommodate Mr. Grutkowski's mother, who is elderly and afflicted with rheumatoid arthritis. Mr. Grutkowski testified that he does not believe the proposed addition will cause any detrimental or negative impact to the neighbors, and in fact there are no houses immediately behind the home, only pasture and farmland. Mr. Grutkowski also indicated that he is willing to comply with those conditions for approval recommended by the Department of Planning and Zoning.

The Staff Report prepared and submitted by the Department of Planning and Zoning supported the testimony of Mr. Grutkowski and noted:

"The Department agrees with the Applicants that the property is unique due to the topography of the site and other natural features, the existing dwelling was located to the rear of the lot. The builder also located the dwelling on an angle. The dwelling currently does not meet the 50 foot setback requirements. The proposal will reduce the rear yard at the closest point to 22 feet. However, there are large mature trees and shrubbery across the rear lot line that buffers the improvements from the adjacent property. Currently, there are no dwellings located behind the subject property."

Based upon its findings that the Applicants met the requirements for a variance set forth in the Code, the Department recommended approval of the Applicants' request.

No witnesses appeared or testified in opposition.

CONCLUSION:

The Applicants are seeking a variance from Section 267-34C, Table II, of the Harford County Code, to construct a 24 foot by 36 foot, two story addition to their home within the required 50 foot rear yard setback. They are proposing a 22 foot setback.

The uncontradicted testimony of Applicant Michael Grutkowski, together with the Staff Report of the Department of Planning and Zoning, demonstrate that the subject parcel is unique due to its topographical features, including a stream and a drainfield located in the front of the property, and the placement of the existing home well to the rear of the lot, at an angle, within the required rear yard setback.

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It is clear from the testimony that denial of the requested variance would cause the Applicants practical difficulty and hardship in that it would effectively prevent them from building an addition they need to accommodate the family's living situation. The fact that there are no houses directly behind the subject property, combined with the existence of landscaping and tree buffers, supports a finding that there would be no substantial detriment to the adjoining properties and no adverse impact to the neighborhood as a whole. There is no evidence to suggest that approval of the variance would materially impair the purpose of the Code or the public interest. The house sits well back from the roadway, and it would appear that the addition would add to the value of the home, rather than detract from it.

It is the finding of the Hearing Examiner that the subject property is unique for the reasons stated by the Applicant, and supported by the Department of Planning and Zoning, as outlined above. Further, the Hearing Examiner finds that, based upon the evidence noted above, approval of the variance will not be substantially detrimental to adjacent properties or materially impair the purpose of the Code.

Therefore, it is the recommendation of the Hearing Examiner that the requested variance to reduce the rear yard setback to 22 feet be approved, subject to the following conditions:

1. The Applicants shall obtain all necessary permits and inspections;
2. The Applicant shall attempt to maintain existing mature trees, shrubbery and landscaping along the rear and side property lines to provide a buffer between adjacent properties.

Date JULY 21, 2000

**Valerie H. Twanmoh
Zoning Hearing Examiner**